

AMENDED IN ASSEMBLY MARCH 19, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2350**

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**Introduced by Assembly Member Bonilla**

February 21, 2014

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An act to amend Section 66281.5 of the Education Code, relating to postsecondary education.

LEGISLATIVE COUNSEL'S DIGEST

AB 2350, as amended, Bonilla. Postsecondary education: Equity in Higher Education Act: prevention of pregnancy discrimination.

~~Existing~~

(1) *Existing* law, known as the Donahoe Higher Education Act, sets forth, among other things, the missions and functions of California's public and independent segments of higher education and their respective institutions of higher education. Provisions of the act apply to the University of California only to the extent that the Regents of the University of California, by appropriate resolution, act to make a provision applicable.

A portion of the Donahoe Higher Education Act known as the Equity in Higher Education Act declares, among other things, that it is the policy of the State of California that all persons, regardless of their sex, should enjoy freedom from discrimination of any kind in the postsecondary educational institutions of the state.

This bill would express various legislative findings and declarations relating to pregnancy discrimination. The bill would add to the Equity in Higher Education Act a provision specifying that this policy of freedom from discrimination includes, but is not limited to, freedom from pregnancy discrimination as described in a specified federal statute.

*This bill would prohibit postsecondary educational institutions from requiring a graduate student to take a leave of absence, withdraw from the graduate program, or limit his or her graduate studies solely due to pregnancy or pregnancy-related issues. The bill would require postsecondary educational institutions to reasonably accommodate pregnant graduate students, as specified, so that they may complete their graduate courses of study and research. The bill would require the maintenance of the student status and status in the graduate program of graduate students who choose to take leaves of absence because they are pregnant or have recently given birth. The bill would require postsecondary educational institutions to allow graduate students who choose to take leaves of absence because they are pregnant or have recently given birth up to 12 additional months to prepare for preliminary and qualifying examinations and an extension of up to 12 months toward normative time to degree while they are in candidacy for a graduate degree.*

*(2) The Equity in Higher Education Act requires each postsecondary educational institution in the state to have a written policy on sexual harassment.*

*This bill would require the written policy on sexual harassment to include procedures for Title IX pregnancy discrimination complaints and the name and contact information of the institution's Title IX compliance officer.*

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) Title IX of the Education Amendments of 1972 (20 U.S.C.
- 4 Sec. 1681, et seq.) is best known for providing equity to female
- 5 and male athletics, but it also specifically addresses pregnancy
- 6 discrimination.
- 7 (b) In 2012, the Obama administration began an initiative to
- 8 increase the number of women in the science, technology,
- 9 engineering, and mathematics (STEM) fields. President Obama
- 10 tasked the United States Department of Education to lead an
- 11 initiative with the Department of Justice, the Department of Energy,
- 12 the National Aeronautics and Space Administration, the National

1 Science Foundation, and the Department of Health and Human  
2 Services to create a common guidance program to ensure that grant  
3 recipients are complying with Title IX.

4 (c) The federal initiative focuses on women scientists, but Title  
5 IX compliance is also incredibly important across all academic  
6 fields at all colleges and universities.

7 (d) Preventing pregnancy discrimination in the STEM fields is  
8 particularly important because it is known to hinder the  
9 advancement of women in these fields. For example, even though  
10 women represent between 35 and 40 percent of graduate students  
11 in chemistry, less than 13 percent of faculty at the top 50  
12 universities in the United States are women.

13 (e) According to a survey of doctorate recipients by the National  
14 Science Foundation, “women who are married with children in  
15 the sciences are 35 percent less likely to enter a tenure track  
16 position after receipt of their Ph.D. than married men with children,  
17 and they are 27 percent less likely than their male counterparts to  
18 achieve tenure upon entering a tenure track job.”

19 (f) The same phenomenon has appeared in non-STEM fields,  
20 as studies indicate that married mothers who earn Ph.D.s are 28  
21 percent less likely to obtain a tenure track job than are married  
22 men with children who earn Ph.D.s.

23 ~~(g) Graduate students and postdoctoral students are typically~~  
24 ~~considered to be students, trainees, or fellows, and are therefore~~  
25 ~~not eligible for the Family Medical Leave Act or paid family leave,~~  
26 ~~which would provide for leave during the birth of a child. Most of~~  
27 ~~these “students” must do research or teach in order to fulfill the~~  
28 ~~requirements of their graduate programs.~~

29 *(g) While attending graduate school, many graduate students*  
30 *move in and out of university employment. This affects their*  
31 *eligibility for benefits and pregnancy accommodations, except for*  
32 *their protections under Title IX.*

33 (h) Many universities and colleges are not in compliance with  
34 Title IX, and students are unaware that they are protected from  
35 pregnancy discrimination.

36 (i) Preventing pregnancy discrimination against graduate  
37 ~~students and postdoctoral students~~ is important for both genders  
38 so that both men and women can bond with new children and have  
39 a framework with which to approach these discussions with their  
40 academic institutions.

SEC. 2. Section 66281.5 of the Education Code is amended to read:

66281.5. (a) (1) (A) It is the policy of the State of California, pursuant to Section 66251, that all persons, regardless of their sex, should enjoy freedom from discrimination of any kind, including, but not limited to, pregnancy discrimination as described in Title IX of the Education Amendments of 1972 (20 U.S.C. Sec. 1681, et seq.), in the postsecondary educational institutions of the state.

(B) *Each of the following requirements shall be applicable to postsecondary educational institutions in this state:*

(i) *A postsecondary educational institution shall not require a graduate student to take a leave of absence, withdraw from the graduate program, or limit his or her graduate studies solely due to pregnancy or pregnancy-related issues.*

(ii) *A postsecondary educational institution shall reasonably accommodate pregnant graduate students so they may complete their graduate courses of study and research. Reasonable accomodation within the meaning of this clause may include, but is not necessarily limited to, allowances for the pregnant student's health and safety, such as allowing the student to maintain a safe distance from hazardous substances, excusing absences that are medically necessary, and allowing the student to make up tests and assignments that are missed for pregnancy-related reasons.*

(iii) *A graduate student who chooses to take a leave of absence because she is pregnant or has recently given birth shall maintain her status as a student during that leave of absence.*

(iv) *A graduate student who chooses to take a leave of absence because she is pregnant or has recently given birth shall maintain her status in the graduate program during an absence of up to two academic terms, unless there is a medical reason for a longer absence, in which case her status in the graduate program shall be maintained during that period of absence.*

(v) *A graduate student who chooses to take a leave of absence because she is pregnant or has recently given birth shall be allowed up to 12 additional months to prepare for preliminary and qualifying examinations and extension of up to 12 months toward normative time to degree while in candidacy for a graduate degree.*

(2) The purpose of subdivisions (b) to (g), inclusive, is to provide notification of the prohibition against sexual harassment

1 as a form of sexual discrimination and to provide notification of  
2 available remedies.

3 (b) Each postsecondary educational institution in the State of  
4 California shall have a written policy on sexual harassment. It is  
5 the intent of the Legislature that each educational institution in  
6 this state include this policy in its regular policy statement rather  
7 than distribute an additional written document. *This written policy*  
8 *shall include procedures for Title IX pregnancy discrimination*  
9 *complaints.*

10 (c) The postsecondary educational institution's written policy  
11 on sexual harassment shall include information on where to obtain  
12 the specific rules and procedures for reporting charges of sexual  
13 harassment and for pursuing available remedies. *The written policy*  
14 *shall include the name and contact information of the institution's*  
15 *Title IX compliance officer.*

16 (d) A copy of the postsecondary educational institution's written  
17 policy on sexual harassment shall be displayed in a prominent  
18 location in the main administrative building or other area of the  
19 campus or schoolsite. "Prominent location" means that location,  
20 or those locations, in the main administrative building or other  
21 area where notices regarding the institution's rules, regulations,  
22 procedures, and standards of conduct are posted.

23 (e) A copy of the postsecondary educational institution's written  
24 policy on sexual harassment, as it pertains to students, shall be  
25 provided as part of any orientation program conducted for new  
26 students at the beginning of each quarter, semester, or summer  
27 session, as applicable.

28 (f) A copy of the postsecondary educational institution's written  
29 policy on sexual harassment shall be provided for each faculty  
30 member, all members of the administrative staff, and all members  
31 of the support staff at the beginning of the first quarter or semester  
32 of the school year, or at the time that there is a new employee  
33 hired.

34 (g) A copy of the postsecondary educational institution's written  
35 policy on sexual harassment shall appear in any publication of the  
36 institution that sets forth the comprehensive rules, regulations,  
37 procedures, and standards of conduct for the institution.